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C O N F I D E N T I A L SECTION 01 OF 03 ANKARA 006529

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SUBJECT: TURKEY'S NEW FOUNDATIONS LAW ADVANCES RELIGIOUS  
MINORITY RIGHTS

REF: A. 05 ANKARA 2750

[1](#)B. ANKARA 5141

Classified By: Political Counselor Janice G.Weiner, reasons 1.4(b),(d)

1.(C) Summary: Te Turkish Parliament passed a new Law on Foundations on November 9 -- part of its 9th EU Reform Package -- to address the issue of properties seized by the Turkish State from religious minority communities. The EU has said the law, which now awaits President Sezer's approval, is a significant improvement over prior GOT efforts; minority community representatives believe the law should have gone further. Considering the strong opposition to the bill and the heated environment in which it was debated, the bill is an encouraging, if measured, step forward both for improving the rights of religious minorities and helping Turkey's EU bid. End summary.

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Parliament Passes Long-Awaited Bill  
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2.(SBU) On November 9, the Turkish Parliament passed the long-awaited new Law on Foundations, part of the 9th EU Reform package, despite various attacks by the opposition Republican People's Party (CHP). The law, which awaits President Sezer's approval, has been in the works for over a year and is designed to address the conflict over properties belonging to Turkey's historic Christian, Jewish, and Baha'i communities -- one of the most enduring sticking points in Turkey's EU candidacy and its relations with the US. Although the new law does not address all the concerns of the minority communities, the US or the EU, on balance it is a positive step for human rights in Turkey.

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At Issue: Non-Muslim Properties Seized by the State  
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3.(U) Churches and other non-State religious institutions have no legal personality in Turkey and cannot therefore own property in their own right. For this reason, religious community properties such as churches, monasteries, and schools tend to be owned by Religious Community Foundations that come under the authority of the Directorate General of Foundations, or "Vakiflar". Although Article 40 of the 1923 Lausanne Treaty granted religious minority communities the

right to independently administer their own foundations, the Turkish state has regularly intervened in the management of these foundations.

4.(U) In 1936, the GOT required foundations to declare all their properties in a land registry. In 1974, amidst mounting tensions over Cyprus, the Turkish High Court of Appeals (the "Yargitay") issued a ruling that minority religious foundations had no right to acquire properties beyond those listed in the 1936 declarations. The State subsequently seized control of properties acquired after 1936. The ruling also allowed the State to confiscate property, including those declared in 1936, under certain conditions. Most of the expropriated properties belonged to the Greek Orthodox and Armenian Orthodox foundations. The properties included not only churches but also rent-generating assets such as apartment buildings.

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GOT Hails New Law As Human Rights Advance  
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5.(U) In a November 16 meeting, Vakiflar DDG for Foundations Burhan Ersoy hailed the new law as a great step forward for minority rights in Turkey. Ersoy said the law facilitates the return of properties by establishing an 18-month period for foundations to apply to recover properties listed in the 1936 declaration and then expropriated by the State. The law will also significantly ease administrative restrictions on foundations, Ersoy told us, by allowing foundations to acquire, exchange, and dispose of properties without governmental permission, and to establish corporations to help them to carry out investment activity.

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EU Says New Law Is A Vast Improvement  
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6.(C) EU Commission representatives in Turkey told us that their initial view is that the new law is significantly better than prior draft laws. Sema Kilicer, political officer at the Commission's Delegation to Turkey, said a main advance is that the law is not limited to the three "traditional" minorities (Jewish, Armenian Christian, and Greek Orthodox) but applies to Chaldeans, Bahai's, and all other groups. The new law also gives foundations more leeway in managing their properties, makes it easier to recover some expropriated properties, and will allow foundations to legally amend their Charter's purpose, Kilicer told us. The latter, she said, should prevent the GOT from continuing its practice of seizing foundation property when it determined a foundation was not pursuing its original purpose. Kilicer believes the law makes such significant concessions to religious minorities that she expects President Sezer to veto it.

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Minority Communities Expected More  
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7.(SBU) Minority communities have consistently complained about the GOT's lack of effort to resolve this longstanding problem (see reftels). The new law, according to our minority communities contacts, makes more progress than past efforts but fails to accomplish the more sweeping overhaul for which they had hoped. Although minority community attorneys are still analyzing the new law, there is general consensus as to the major shortcomings, summarized in para 8.

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Summary of Law's Shortcomings  
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8.(SBU) Properties Seized Prior to 1936: There is no

provision in the new law for reversing allegedly arbitrary State decisions to confiscate foundations' properties declared prior to 1936. According to minority communities, properties associated with these foundations make up the bulk of the properties seized by the State.

9.(SBU) Properties Sold to Third Parties: The law is silent on the issue of properties expropriated by the State and then sold to third parties. Minority communities say that there are many such properties for which they will not be economically compensated.

10.(SBU) "Fused" Foundations: The GOT has long followed the practice of taking administrative control of, or "fusing", foundations for which there are no descendants of the original founders or trustees. Minority communities say that the GOT often arbitrarily and without proper evidence "fused" (also known as "Mazbut") foundations. The new law does not allow communities to recover "fused" foundations.

11.(SBU) Council: The 15-member Vakiflar Council, the highest decision-making body overseeing the foundations, would include one member (previously there were none) elected by the "non-Muslim" foundations. The law does not specify how that one member would be chosen. Attorneys for the Christian and Jewish communities maintain that one member cannot represent the various religious minority communities. They had urged the GOT to include six representatives elected by religious minority communities with foundations.

12.(C) Comment: Under pressure from the EU, the ruling Justice and Development Party (AKP), pushed through this legislation despite vigorous opposition from those who argued that any expansion of minority rights would threaten the Turkish State. The CHP hurled accusations that the AKP was making concessions without seeking reciprocal steps from Greece, in violation of the Lausanne Treaty. As a result of exhaustive CHP lobbying, certain elements were eventually watered down. Although the law is imperfect, and falls short of EU and minority communities' high hopes, it goes significantly further than past efforts. One government

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official candidly told us it was as far as the GOT could go -- for now. Post will continue to press for further changes.

In the interim, the new law will likely provide Turkey a much-needed, if measured, boost as it awaits a decision on its accession status at the EU Summit in mid-December. End comment.

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